

Cond A

a mount adapted to couple to a second structure, the mount being made of a first material, the mount being formed to include a bore,

a stud extending from the cell block, and

a liner positioned to lie in the bore, the stud engaging the liner, and the liner being made of a second material that is more lubrous than the first material, a space being defined between the stud and the mount to permit relative movement between the stud and the mount.

REMARKS

Double Patenting Rejections

Claims 1-11 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-28 of U.S. Patent No. 6,362,439 B1 to Reichow (hereinafter “Reichow”). Without addressing the merits of the Examiner’s conclusion relating to the patentable distinction between claims 1-11 of the pending application and claims 17-28 of Reichow, the Applicant respectfully submits that this rejection is improper and should be withdrawn.

“Before consideration can be given to the issue of double patenting, there must be some common relationship of inventorship and/or ownership of two or more patents or application.” MPEP 804. Reichow currently lists Keith Reichow as the sole inventor and Stress-Tek, Inc. as the sole assignee. The present application lists Donald L. Mobley, Steve A. Dixon, and Randall K. Hopkins as inventors. Hill-Rom Services, Inc. is the current assignee of the present application.

Currently, there is no recognized common relationship between the inventorship and/or ownership of Reichow and the present application. Thus, based on the currently recognized inventorship and ownership of Reichow and the present application, the present double patenting rejection is improper and should be withdrawn.

The Applicant brings to the attention of the Examiner, a complaint filed on August 27, 2002. A copy of the complaint is provided in Appendix A. In the complaint, the Plaintiff (Hill-Rom Company, Inc., Hill-Rom, Inc., and Hill-Rom Services, Inc.) (“Hill-Rom”) alleges that “[s]ome or all of the claims of [Reichow] are the inventions of persons who were employed by or engaged by Hill-Rom at the time of their inventions and that the inventions are owned by Hill-Rom.” (See paragraph 26 of the complaint). Thus, the inventorship and ownership of Reichow is currently being challenged as indicated by the complaint.

This complaint may result in a conclusion that one or more of the inventors listed in the present application should also be listed as inventors of Reichow, which may ultimately result in the assignee of the present application having an ownership interest in Reichow. However, there is currently no recognized common inventorship and/or ownership between Reichow and the present application. Thus, the Applicant respectfully submits that the rejection under the judicially created doctrine of obviousness-type double patenting is improper and at least be provisionally withdrawn until the matter of the inventorship and ownership of Reichow is resolved.

Prior Art Rejections

Claims 1-11 were rejected were under 35 U.S.C. §102(b) as being anticipated by EP Patent Application 0744598 A1 to Welvaarts (hereinafter “Welvaarts”). Welvaarts relates to a WEIGHING APPARATUS.

Welvaarts discloses a load cell 2 mounted on a frame 1 by bolts 3. A bore 4 is formed in a free end of load cell 2, in which a dish-shaped means 5 is disposed. A ball 6 is confined between dish-shaped means 5 and another dish-shaped means 7 supported on ball 6. Dish-shaped means 7 is screwed into a threaded bore which is formed in a sleeve-shaped means 8. The inner circumference of sleeve-shaped means 8 and a side of a wall 9 facing the inside of sleeve-shaped means 8 are spaced from the outer circumference of the end of load cells 2, and the space thus formed is filled by a connecting piece 10 consisting of a resilient material.

Sleeve-shaped means 8 and wall 9 form part of an auxiliary frame, on which a load to be weighed may be placed. At least a larger part of the load to be weighed, which is applied in vertical direction, will be transmitted to load cell 2 via dish 7, ball 6, and dish 5. Any forces applied in a direction deviating from the vertically downward direction will be transmitted to the load cell 2 via the confined resilient connecting piece 10, whereby said connecting piece will also prevent undesirable large movements of auxiliary frame 8,9 with respect to load cell 2 and/or frame 1.

Welvaarts, alone or in combination, does not teach or suggest the combination including “a mount ... a stud ... and a liner ... a space being defined between the stud and the mount to permit relative movement between the stud and the mount” as required by amended claim 1. Claims 2-11 depend from claim 1 and contain additional independently patentable subject matter. Thus, claims 1-11 are believed to be in condition for allowance.

Information Disclosure Statements

The Applicant requests that the Examiner consider the initial Information Disclosure Statement submitted on November 13, 2000 and the first Supplemental Information Disclosure Statement submitted on February 1, 2001. Copies of the initial Information Disclosure Statement and the first Supplemental Information Disclosure Statement are provided herewith along with the return postcards indicating receipt of these Information Disclosure Statements by the United States Patent and Trademark Office. The Applicant also encloses the 1449 Form provided to the Applicant with the first Official Action. This 1449 Form appears to be the original 1449 Form received by the United States Patent and Trademark Office. The Applicant respectfully requests that the Examiner initial references AA, AB, and AC of this 1449 Form indicating the Examiner has considered these references.

Notice of References Cited

The Applicant also notes that the Examiner has listed Reichow on Form PTO-982-Notice of Reference cited that accompanied the first Official Action. Reichow was filed on April 21, 2000. The present application has a priority date under 35 U.S.C. §119(e) of September 29, 1999. Thus, the priority date of the present application predates the filing date of Reichow.

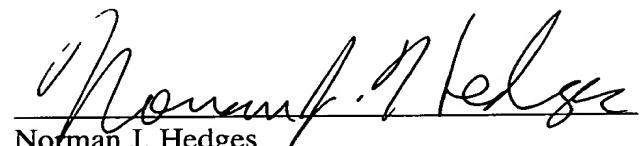
Final Remarks

Claims 1-11 are believed to be in condition for allowance. Such allowance is respectfully requested.

If necessary, please consider this a Petition for Extension of Time to effect a timely response. Please charge any additional fees or credits to the account of Bose McKinney & Evans, LLP Deposit Account No. 02-3223. In the event that there are any questions related to these amendments or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,

BOSE McKINNEY & EVANS, LLP


Norman J. Hedges
Norman J. Hedges
Reg. No. 44,151

Indianapolis, Indiana 46204

(317) 684-5283

423835_2

APPENDIX A



BOSE McKINNEY & EVANS LLP



25267

PATENT TRADEMARK OFFICE

2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, Indiana 46204
(317) 684-5000

PATENT APPLICATION

RECEIVED
OCT 21 2002
TECHNOLOGY CENTER 2800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 2841 }
Atty. Docket: 8266-0474 }
Applicants: Mobley et al. }
Invention: LOAD CELL }
APPARATUS }
Serial No.: 09/669,707 }
Filed: September 26, 2000 }
Examiner: Gibson, R. }

Certificate Under 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office in accordance with §1.6(d).

on October 7, 2002



Norman J. Hedges

Dated: October 7, 2002

MARKED UP COPY OF THE AMENDMENT
UNDER § 1.121

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The amendment below has been made to the accompanying Amendment and Reply. Brackets indicate deletions. Underlining indicates additions.

Claim

Claim 1 has been amended as indicated below:

1. (Amended) A load cell apparatus comprising a cell block adapted to couple to a first structure, a mount adapted to couple to a second structure, the mount being made of a first material, the mount being formed to include a bore, a stud extending from the cell block, and a liner positioned to lie in the bore, the stud engaging the liner, and the liner being made of a second material that is more lubrous than the first material, a space being defined between the stud and the mount to permit relative movement between the stud and the mount.

REMARKS

In the event that there are any questions related to this amendment or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,

BOSE McKINNEY & EVANS, LLP



Norman J. Hedges
Reg. No. 44,151

Indianapolis, Indiana 46204
(317) 684-5283
424368_1.DOC